

405 KAR 1:007. Termination and reassertion of jurisdiction.

RELATES TO: KRS 350.060, 350.070, 350.085, 350.090, 350.093, 350.100, 350.130, 350.135, 350.200, 350.210, 350.220, 350.405-350.455, 350.465, 30 C.F.R. 700.11(d), 710, 715, 716, 720, 730-733, 735, 917, 30 U.S.C. 1252, 1255, 1265, 1278, 1291

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.050, 350.060, 350.465, 30 C.F.R. 700.11(d), 710, 715, 716, 720, 730-733, 735, 917, 30 U.S.C. 1252, 1255, 1265, 1278, 1291

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to promulgate administrative regulations pertaining to surface coal mining and reclamation operations. This administrative regulation establishes requirements to terminate the jurisdiction of the cabinet under this chapter over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, and to reassert that jurisdiction under certain conditions.

Section 1. Termination of Jurisdiction. Beginning November 1, 1992, the jurisdiction of the cabinet under this chapter over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, shall terminate when:

(1) The cabinet has determined in writing that all requirements imposed under this chapter and KRS Chapter 350 have been successfully completed; or

(2) If a performance bond was required, the cabinet has made a final decision in accordance with 405 KAR 1:050, Section 11 to release the performance bond fully. For the purposes of this section, the cabinet's decision to release the performance bond shall not be final until the time to file administrative and judicial appeals has expired and all appeals have been resolved.

Section 2. Reassertion of Jurisdiction. (1) If jurisdiction was terminated under Section 1 of this administrative regulation, the cabinet shall reassert jurisdiction under this chapter over the site if it is demonstrated that the bond release decision or written determination referred to in Section 1 of this administrative regulation was based upon fraud, collusion, or misrepresentation of a material fact.

(2) If the cabinet prior to November 1, 1992, terminated jurisdiction under this chapter over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, the cabinet shall reassert jurisdiction under this chapter over the site if it is demonstrated that the bond release decision or other determination that led to the termination of jurisdiction was based upon fraud, collusion, or misrepresentation of a material fact. (19 Ky.R. 544; Am. 1077; eff. 11-9-92.)